

# Memorandum

Date: 12/27/2012

From: Director, Procurement Policy and Warrant Management Service (003A2A)

Subj: Class Deviation from Federal Acquisition Regulation 6.304(a)(1); VA Acquisition Regulation (VAAR) 819.7007(b) and VAAR 819.7008(b) (VAIQ #7280823)

To: Associate Deputy Assistant Secretary for Procurement Policy, Systems, and Oversight (003A2) and Deputy Senior Procurement Executive

1. **Purpose:** To request your approval, in accordance with Federal Acquisition Regulation (FAR) subpart 1.404, Class Deviations, and Department of Veterans Affairs Acquisition Regulation (VAAR) subpart 801.404, Class Deviations, to issue a Class Deviation from:

- a. FAR 6.304(a)(1), Approval of Justification, to change the required level of approval for sole source procurements not exceeding \$650,000 that use the authority of Public Law 109-461, Veterans Benefits, Health Care, and Information Technology Act of 1996.;
- b. VAAR 819.7007(b), Sole Source Awards to Service-disabled veteran-owned small business (SDVOSB) Concerns, to change subparagraph (b) to require the CO to submit a justification and obtain approval for all sole source awards to SDVOSBs.; and
- c. VAAR 819.7008(b), Sole Source Awards to Veteran-owned small business (VOSB) Concerns, to change subparagraph (b) to require the Contracting Officer (CO) to submit a justification and obtain approval for all sole source awards to VOSBs.

2. **FAR and VAAR Sections Impacted:** FAR 6.304(a)(1), VAAR 806.304(a)(1), VAAR 819.7007(b) and VAAR 819.7008(b)

3. **Effective Date:** Immediately.

4. **Expiration Date:** Until Rescinded.

5. **Applicability:** This deviation applies to all sole source justifications using the authority of Public Law 109-461, Veterans Benefits, Health Care, and Information Technology Act of 1996.

COs may use sole source procedures authorized in VA Acquisition Regulation (VAAR) 819.7007 and 819.7008 up to \$5,000,000, as appropriate, subject to the review and approval of the designated procurement official identified in FAR 6.304 and VAAR 806.304.

Class Deviation from Federal Acquisition Regulation 6.304(a)(1), VA Acquisition Regulation (VAAR), 819.7007(b) and 819.7008(b)

**6. Background:**

**a. Current Policy:**

- 1) **FAR 6.304(a)(1):** For a proposed contract not exceeding \$650,000, the COs certification required by 6.303-2(b)(12) will serve as approval unless a higher approving level is established in the agency.
- 2) **VAAR 819.7007(b):** The contracting officer's determination whether to make a sole source award is a business decision wholly within the discretion of the contracting officer. A determination that only one SDVOSB concern is available to meet the requirement is not required.
- 3) **VAAR 819.7008(b):** The contracting officer's determination whether to make a sole source award is a business decision wholly within the discretion of the contracting officer. A determination that only one VOSB concern is available to meet the requirement is not required.

**b. Need for Deviation:**

The requested deviations will be incorporated into a Sole Source Contracting Procurement Policy Memorandum, specific to the Veterans First program.

The inherent preference of the Department is competitive acquisitions. By changing the reviewer level for procurements above the Simplified Acquisition Threshold (SAT)(\$150,000), but below \$650,000 from the CO to one level above the CO and mandating that a justification and approval is required for all sole source SDVOSB and VOSB awards, this deviation will promote the use of competition and build additional accountability into the review and approval process for sole source procurements under the Veterans First Program.

**c. New Policy:**

The new policy establishes that COs may approve sole source justifications up to the SAT. Actions above the SAT, but not exceeding \$650,000 require approval one level above the CO. In addition, the new policy requires COs to submit a justification and obtain approval for all sole source awards to SDVOSBs and VOSBs.

**7. Attachment:**

- VA Class Deviation from FAR 6.304(a)(1), VAAR 819.7007(b) and VAAR 819.7008(b)

Page 3.

Class Deviation from Federal Acquisition Regulation 6.304(a)(1), VA Acquisition Regulation (VAAR), 819.7007(b) and 819.7008(b)

8. **Additional Information:** Questions or comments regarding this class deviation may be directed to Ms. Eyvonne Mallett, Senior Procurement Analyst, at (202) 461-5101 or VA.Procurement.Policy@va.gov.

Sheila P. Darrell  
/s/for Marilyn Harris

Attachment

Approved/~~Disapproved~~

/s/C. Ford Heard III  
C. Ford Heard III  
ADAS for Procurement, Policy,  
Systems and Oversight

1/11/13

Date

**Class Deviation from the Federal Acquisition Regulation  
6.304(a)(1) and VAAR 819.7007(b) and 819.7008(b)**

**Findings**

In all cases, the Department of Veterans Affairs (VA) prefers and encourages competition in awarding acquisitions under the Veterans First Program. As such, all efforts to promote and procure competitively shall be considered prior to awarding sole source procurements under the Veterans First authority. This deviation changes current sole source justification approval levels for procurements between the simplified acquisition threshold (\$150,000) and \$650,000 by raising the approval level from the Contracting Officer (CO) to one level above the CO. The purpose of this change is not to reduce CO discretion, but instead is based on the need to strengthen the sole source review and approval process under the Veterans First Program.

This deviation informs the CO that:

- A sole source justification and approval is required prior to awarding sole source contracts to SDVOSBs and VOSBs.
- The sole source justification for actions under the Veterans First Program must be approved one level above the CO for actions above \$150,000 or below \$650,000.
- The review level for all other actions above \$650,000 remains the same.

**Determination**

In accordance with FAR 1.404 and VA Acquisition Regulation (VAAR) 801.404, I hereby issue a class deviation to mandate that VA COs must obtain approval from one level above the CO for all SDVOSB and VOSB sole source requirements above \$150,000, but below \$650,000, that fall under the Veterans First Authority pursuant to VAAR 819.7007 and 819.7008. Additionally, 819.7007(b) and 819.7008(b) are amended to require that the CO obtain justification and approval prior to awarding a sole source procurement to an SDVOSB or VOSB.

/s/C. Ford Heard III  
C. Ford Heard III  
Deputy Senior Procurement Executive  
Attachment

1/11/13  
Date

**Class Deviation from the Federal Acquisition Regulation  
6.304, Approval of the Justification**

**806.304, Approval of Justification.**

(a) For a justification other than a class justification specified in [FAR 6.304\(c\)](#), [Table 806.304-1](#) provides the authorities who may approve a justification:

Table 806.304.1

<b>Proposed contract amount</b>	<b>Approving authority</b>	<b>Alternate approving Authority</b>
(1) Up to the Simplified Acquisition Threshold (SAT)	The contracting officer	Not applicable
(2) Above the SAT, but not exceeding \$650,000	One level above the contracting officer	Not applicable
(3) Over \$650,000 but not exceeding \$12.5 million	Contracting Activity Competition Advocate (see <a href="#">806.501(b)</a> and <a href="#">(c)</a> ) unless that Advocate is the contracting officer.	The Agency Competition Advocate (see <a href="#">806.501(a)</a> )
<b>*Note: Table truncated because sole source procurement under the Veterans First Program may not exceed \$5,000,000.</b>		

**Class Deviation from the VAAR**

**819.7007(b), Sole Source Awards to Service-Disabled Veteran-Owned Small Business Concerns**

(b) The contracting officer's determination whether to make a sole source award is a business decision. A sole source justification and approval is required prior to award. The justification must be approved by the approving official designated in FAR deviation 6.304.

**Class Deviation from the VAAR**

**819.7008(b), Sole Source Awards to Veteran-Owned Small Business Concerns**

(b) The contracting officer's determination whether to make a sole source award is a business decision. A sole source justification and approval is required prior to award. The justification must be approved by the approving official designated in FAR deviation 6.304.